

Arizona State Board of Homeopathic and Integrated Medicine Examiners

Minutes of the Special Meeting

October 20, 2009

I. Call to Order, Roll Call

Presiding officer, Dr. Todd Rowe, called the meeting to order at 8:30 a.m.

Roll Call

Present:

Todd Rowe, MD, MD(H)
Don Farris (arrived 8:40 a.m.)
Martha Grout, MD MD(H)
Les Adler, MD, MD(H)
Alan Kennedy
David Rupley, MD(H)

Absent:

Mona Baskin, Assistant Attorney General; Christine Springer, Executive Director; and members of the public were also present.

Dr. Rowe welcomed Mr. Alan Kennedy to the Board and congratulated him on his recent appointment by Governor Brewer. He will serve in the public member position replacing Marie Stika.

II. Review, Consideration, and Action on Minutes

Executive Session Minutes, July 14, 2009

Dr. Rupley moved to approve the executive session minutes. Dr. Adler seconded the motion that passed with the following members participating in the vote: Dr. Rowe, Mr. Farris, Dr. Rupley and Dr. Adler.

Dr Grout recused

Mr. Kennedy abstained

Regular Meeting Minutes – September 8, 2009

Dr. Rupley moved to approve the regular session minutes. Mr. Farris seconded the motion that passed with a majority vote.

Mr. Kennedy abstained

III. Review, Consideration and Action on Applications

A. Medical Assistants

George Cromack

Dr. George Cromack, D.C. and Dr. Gabriel Cousens were present as the Board considered Dr. Cromack's medical assistant application. Mrs. Springer provided an overview of the applicant's education stating that he had met the application requirements under AAC R4-38-310. She explained that as a currently licensed chiropractor in good standing in Hawaii and California, he was subject to an oral interview by the Board.

The interview proceeded with members questioning Dr. Cousens and the applicant regarding the proposed job duties. The applicant explained that under Dr. Cousens' supervision he would communicate nutritional and supplemental recommendations to patients; conduct surface electro myographic and range of motion studies, and assist patients with yoga, breathing exercises and routines.

Following additional questions on the various manual techniques that would be utilized, Dr. Grout made a motion to approve the application. Dr. Adler seconded the motion that passed unanimously.

Khilat Mithani

At this point in the meeting, Dr. Rowe recused himself from consideration of this matter and sat in the audience.

Dr. Grout assumed the chair and requested that Mrs. Springer provide a background of the applicant's educational credentials. Following her presentation and a brief discussion noting that Ms. Mithani was in the third year of the homeopathy program at the American Medical College of Homeopathy, Dr. Adler made a motion to approve the application. Dr. Rupley seconded the motion that passed with a majority of the members voting 5 – 0 in favor.

Dr. Rowe recused.

Ashlea Hayes

Mrs. Springer informed the Board that the application was not complete and should be tabled. The Board confirmed that the matter would be tabled until the applicant has submitted all of the required documentation.

The Board took a ten minute break at this point in the meeting agenda

IV. Review, Consideration and Action on Complaints and Investigations

A. Investigative Hearing pursuant to A.R.S. 32-2934 (C)

Case No. 09-08

Gene Schroeder MD(H)

Dr. Gene Schroeder was present to respond to questions from Board members.

The medical investigator, Dr. Bruce Shelton was also present and at the Board's request presented a brief review of the case. In his preface, Dr. Shelton noted that Dr. Schroeder had been P.T.'s physician for 11 years and had treated her for a thyroid condition over a number of years with Armour Thyroid. The complaint had been filed by P.T.'s daughter after her mother was admitted to the hospital and diagnosed in the ER with thyrotoxicosis. Dr. Shelton indicated the hospital records show a TSH test was performed on P.T., but no T3, T4, or T7 and no referral to an endocrinologist for follow-up was made. P.T. was

admitted to the hospital and the physician there switched her to 50 mg of Synthroid which is equivalent to ½ gram of Armour Thyroid. Dr. Shelton further stated that hospital physicians also performed a BNP test that showed P.T. had a level of 400 (100 is normal). This led to a separate diagnosis of congestive heart failure.

In his review of the physician's medical records, Dr. Shelton stated that Dr. Schroeder had relied on CRA (Contact Reflex Analysis), to determine P.T.'s dosage of thyroid medication. The medical records indicate that blood work was last performed July 21, 2007 and confirmed the dosage of Armour Thyroid P.T. was on at the time of her May 8, 2008 visit to Dr. Schroeder. On that date, however she was seen for a viral bronchitis and parasites. No change to her thyroid medication was indicated. After a few days, the medication for the parasites did not agree with the patient and when she attempted to contact Dr. Schroeder's office for assistance the staff at the clinic did not relay the message appropriately to Dr. Schroeder's home phone. As a result, P.T.'s family took her to the emergency room when they became concerned about her condition. The Board questioned Dr. Shelton regarding the case and then invited Dr. Schroeder to speak.

Dr. Schroeder reviewed the patient's medical record with the Board noting that he had treated the patient since 1991. Regarding her thyroid condition, he indicated it would be his regular practice to perform blood work annually or when a different dosage was indicated. He stated that on occasion the patient had expressed a concern about the cost of lab tests and he had not performed blood work to save her expense. Regarding the office policy on referral of phone messages he stated that office staff had been instructed to send calls directly to Dr's home phone number.

Dr. Rowe requested a copy of the informed consent signed by patient P.T. The Board noted that the consent dated back to the very beginning of the patient-doctor relationship, and did not meet the current requirements of informed consent under A.R.S. 32-2933(41). Dr. Rowe explained that the omnibus law effective in October, 2009 requires disclosure to patients that care is being provided under the homeopathic and/or allopathic medical license. The Board recognized that care in the instant complaint had occurred before the new law went into effect but Dr. Schroeder was encouraged to update his informed consent.

Mr. Farris questioned Dr. Schroeder regarding CRA and ask about the reliability of the method. Dr. Schroeder stated he had no written information on the reliability of the testing method, but noted that he had performed the technique for many years.

At this point Dr. Rowe elaborated the following concerns: 1) the office policy regarding the referral of emergency phone calls may need clarification; 2) changes made in the patient's treatment protocol were not clearly documented in the patient's medical record when given by phone; and 3) the use of CRA to determine thyroid dosage should be followed by an annual blood test and documentation placed in the medical record if the patient declines testing.

Concerns 1 and 2: Regarding Dr. Schroeder's availability by phone during emergencies, the Board suggested a written policy for office staff that would clarify the procedure to be followed. Dr. Schroeder should develop a standard form to document changes to a patient's treatment protocol when conferring by telephone and should insure that the phone conversation and recommendations be transferred to the patient's medical file.

Concern 3: The Board agreed that it is a standard of care when prescribing thyroid medication that an annual blood test be performed to back up the dosage determined by CRA. A blood test should be considered if the dosage is changed, particularly when the prescribed amount is greater than the recognized standard. Dr. Rowe clarified that if, based on cost, a patient declined the tests, then their dated signature confirming their decision should be placed in their medical file.

Board members discussed CRA and expressed concern that the technique of the operator made results obtained from the procedure subjective. They also requested that Dr. Schroeder obtain a doctor's clearance and provide a copy of it to the Board before resuming his medical practice.

Commenting on the complainant's allegation that the patient developed thyrotoxicosis as a result of Dr. Schroeder's prescribed amount of Armour Thyroid, the Board could find no evidence to confirm this allegation. They noted from the testimony of the medical consultant that there was insufficient evidence of appropriate laboratory testing performed on P.T. in the hospital to support their diagnosis of thyrotoxicosis. Dr. Adler commented P.T. had sought treatment for a condition unrelated to her thyroid when she saw Dr. Schroeder in May, 2008. In any case, blood work confirming the dosage of thyroid medication she was on in May, 2008 would not have been due until July, 2008.

The Board deliberated on the course of action to take to address their other concerns. Dr. Grout made a motion to issue a non disciplinary Letter of Concern for failure to properly document phone calls from patients received after hours and for a lack of a formal policy for office staff to follow. The motion included a requirement for Dr. Schroeder to obtain 12 hours of continuing medical education in AMA Category 1 coursework within six months from this date in content related to medical records and documentation in the patient record. As part of the motion the Board directed that Mrs. Springer send a separate letter requesting that Dr. Schroeder update his informed consent to include the new requirements contained within ARS 32-2933(41), develop an office policy for staff, clarifying emergency contact procedures; and develop a patient information sheet that would inform the patient of how Dr. Schroeder could be contacted after hours or on an emergency basis. The Board suggested that the patient receive a copy and be required to sign and date a copy for their medical record. Finally, the motion included a requirement that Dr. Schroeder provide a doctor's release indicating his physical fitness to return to practice and have the doctor indicate a number of days appropriate for Dr. Schroeder's re-entry to practice. Dr. Rupley seconded the motion that passed with a majority vote.

Roll Call: Issue Letter of Concern and require 12 hours of continuing medical education
5-0 aye: Grout, Farris, Rupley, Adler, Rowe
1 recused: Kennedy

Case No. 09-14 Martha Grout, MD, MD(H)

Dr. Grout recused herself from this discussion and sat in the audience.

Mrs. Springer provided a brief overview of the complaint which alleged Dr. Grout should not have agreed to provide an evaluation as requested by the patient's father, in view of her knowledge that patient's mother (complainant) had not assented to the evaluation.

K.R. was present and addressed the Board. She stated that her son's father had sought an evaluation from Dr. Grout without her consent. She explained that when she spoke by

phone with Dr. Grout before the evaluation was completed, she did not think that Dr. Grout would go ahead with the evaluation without her consent noting that a copy of the Custody Order had been provided to Dr. Grout and in K.R.'s opinion was very clear that both parents must agree to medical treatment. Upon questioning, K.R. confirmed that a copy of the Parent Coordinator's email to her son's father stating he must not go forward with the evaluation had not been forwarded to Dr. Grout. K.R. stated she was very upset with her son's father when she discovered that the evaluation had been performed in spite of her request to not do so.

Mr. Kennedy inquired about the number of evaluations her son had undergone. K.R. responded with the information. Mr. Kennedy continued his inquiry asking if she was upset with the multiplicity of treatments her son had already participated in or was she concerned about the specific type of treatment Dr. Grout could offer? K. R indicated she was concerned by both aspects and stated that in her opinion Dr. Grout could have reviewed the multiple documents already available on her son to arrive at a recommendation. K.R. described the current status of the court's recommendation on her son's treatment for ADHD.

The Board invited Dr. Grout to address them. She discussed the type of evaluation provided to K.R.'s son, her phone call with K.R., and the current status of the case in the court system and her involvement. She noted that the father of the patient had sought her assistance because he was worried about the effects of the pharmaceutical treatment his son had been ordered to take and that the courts would only accept a physician's opinion relative to the type of treatment his son should participate in.

Dr. Grout described her evaluation method and indicated she had carefully reviewed the Custody Agreement and felt she could proceed with the father's written consent. She also indicated that had she been aware of the Parenting Coordinator's direction by email to the patient's father, she probably would not have performed the evaluation.

The Board deliberated on the following points: 1) that the Parenting Coordinator's email to the father had not been copied to Dr. Grout by either parent; 2) whether or not Dr. Grout had a written policy on cases involving joint custody issues; 3) that K.R. had been concerned that her son had been taken off his medication in order to perform the evaluation; and 4) that Dr. Grout may have considered utilizing parts of the other evaluations to form her recommendation. With regard to the fourth point, Dr. Grout indicated she could not have reviewed the other records, since her testing was based on different criteria.

Mr. Farris expressed concern that the mother, K.R., had not given permission for the evaluation to proceed. In his opinion, both parents should be in agreement and his review of the Custody Agreement had led him to arrive at this opinion.

Dr. Rowe stated that the Custody Order is primary to the whole case and at 12:30 p.m. he made a motion to adjourn to executive session for legal advice on this issue. His motion was seconded by Mr. Farris and passed with a majority vote. Dr. Grout did not participate in the executive session. The Board returned to the regular meeting at 1:00 p.m.

Upon the Board's return to Open Session, Mr. Kennedy began the discussion by commenting that each of the parents clearly have the best interests of the patient (their child) at heart. In his review of the Custody Order, specifically Page 8, Paragraph G the

language allows each parent to take the child for input from medical professionals. In his opinion, the Father had the right to seek input from Dr. Grout and he stated he did not believe she had violated any ethical considerations of homeopathic law.

Dr. Adler agreed and stated he had relied on the language of the Custody Order at Page 7, paragraph A to arrive at his decision.

Dr. Rupley indicated he viewed the case from the consent granted by the Father. Dr. Grout had proper consent from the Father to provide the evaluation and additionally, the Court had agreed to allow input from Dr. Grout in their case review.

Dr. Rowe noted that on June 1, 2009 the Court could have sanctioned Dr. Grout, but rather asked for her expert opinion and did not place itself between the parents and what is best for the child. Dr. Grout's evaluation did not violate homeopathic or ethical considerations. Had she actually treated K.R.'s son, the case would have been considered in a different light, but that did not occur. He suggested Dr. Grout may want to create an office policy regarding joint custody cases.

Dr. Rupley made a motion to dismiss the case finding no violation. Dr. Adler seconded the motion that passed with a majority vote.

Roll Call: 5 – 0 to dismiss: Rupley, Rowe, Adler, Farris, Kennedy
Grout+ Recused

Following this discussion, Assistant Attorney General Baskin excused herself and left the meeting.

V. Review, Consideration and Action on Professional Business

1. Mrs. Springer indicated that the size of the website was creating additional expense and that personnel at the Department of Administration, Information Services Division had suggested the Board consider removing some of the older minutes and agendas to conserve space on the server. Following discussion Board members agreed that two years plus the current year would be kept on the web site. Mrs. Springer agreed to insert a note on the specific web page indicating that copies of older minutes or agendas could be obtained for free by emailing her direct or in hard copy at a cost of 25 cents per page.

2. Discussion of the newsletter was deferred to the next regular meeting.

VI.. Review, Consideration and Action on Other Business

1.a. Mrs. Springer described the effect of her submission to the Governor's office should a 15% reduction in appropriated funding become effective in January, 2010. She explained that the following services would be affected by the reduction: inability to pay quarterly rent to the Department of Administration, elimination of board member travel to and from regular meetings, and taking on duties currently provided by SBO (including inventory, and preparation of financial reports). At this time the plan has not been implemented, but the Governor's Office has directed agencies, boards, and commissions to be prepared to implement the changes should the State be unable to meet revenue projections.

Dr. Rowe commented that it would be his preference that the executive director's hours not be reduced. Other Board members concurred.

VII. Call to the Public

Following an invitation from Dr. Rowe, no members of the public were present that wished to make an oral statement to the Board.

VIII. Future Agenda Items

- Possible referral to AMB regarding hospital records in complaint 09-08
- Pending medical assistant applications
- Quarterly report of Dr. Crosby
- Newsletter
-

IX. Future Meeting Dates

An Examination Committee meeting will be scheduled at a later date

The Board agreed to change the time of the November 10, 2009 Regular Meeting to 8:00 a.m. and to conduct the meeting by Teleconference.

X. Adjournment

The meeting adjourned at 2:20 p.m. following a motion by Mr. Farris. The motion was seconded by Dr. Grout and passed unanimously. The next Regular Meeting of the Board will be held as a Teleconference and will convene at 8:00 a.m. at 1400 W. Washington, in Room 230, Phoenix, Arizona on November 10, 2009.

Respectfully Submitted,

Christine Springer
Executive Director

Approved in Regular Meeting on 1-12-2010